



OFFICE OF HEALTH CARE ACCESS

Planning tomorrow's health care system today.

May 2010

Certificate of Need -- A Policy Shift in Connecticut

CON Reform and Health Care Reform

Connecticut has passed legislation to reform the Certificate of Need (CON) process to be more responsive to the future changes in the health care delivery system. Federal health care reform contemplates moving from a “volume-driven” system to a patient-centered system. Under current law, Connecticut’s CON process requires “need” to be demonstrated for nearly all new services, sites and equipment. The key element of demonstrating “need” is to rely on theories of supply and demand and present to the state projections of volumes that will result in a feasible project plan. As reimbursement and patients’ insurance coverage begin to shift in response to health care reform efforts, the CON process becomes misaligned as it relies on volume-driven behavior and not value-driven outcomes.

Comparison of New and Existing CON Law

Major policy shifts of the new CON law include the elimination of all capital expenditure thresholds, the removal of the “additional function or service” requirement and the elimination of CONs for “termination of services.” These three reforms combined will reduce the number of applications by at least 50%. Significant change will also occur within the application process itself, leading to a more expedited review. Currently, there is a 60-day Letter of Intent (LOI) phase during which time the application cannot be accepted – under the new law this LOI phase has been removed. The statutory language has been simplified, as it includes a list of those actions that require CON authorization and those that do not require CON authorization. The definition of a health care facility for purposes of CON has become more narrowed in focus to only include: hospitals, freestanding emergency departments, ambulatory surgery centers, mental health facilities, substance abuse facilities and central service facilities.

Below is the list that outlines those actions that **do** require CON authorization:

- Establishment of a new health care facility
- Transfer of ownership of a health care facility
- Increase licensed bed capacity
- Establishment of a freestanding emergency department
- Termination of hospital inpatient or outpatient mental health & substance abuse services
- Termination of an emergency department
- Establishment of an Ambulatory Surgery Center (hospital or physician owned)
- Increase in number of Ambulatory Surgery Center operating rooms (2 or more within 3 years)
- Establishment of inpatient or outpatient cardiac services
- Acquisition of a CT scanner, MRI scanner, PET or PET/CT scanner
- Acquisition of a non-hospital based linear accelerator
- Acquisition of equipment utilizing technology not previously used in state

The table below outlines the facilities and services that will **not** be required to seek CON authorization and a comparison to current law:

New CON Law (effective Oct. 1, 2010)	Current CON Law
Facilities owned by federal government	Same
Private practice offices	Same
Facility operated by religious group that relies on prayer	Same
Residential care, nursing and rest homes	Same
Assisted living agency	Same
Home health agencies	Same
Outpatient chronic dialysis services	Same
Free clinics	Same
School-based, community health and FQHCs	Same
Facility operated by educational institution exclusively for students, faculty and staff	Same
Clinic operated by municipality, health district, etc.	Same
Replacement of existing imaging equipment (MRI, CT, PET/CT) that received a CON or CON Determination, no "waiver" required	Same, except must apply for waiver
Acquisition of cone-beam dental imaging equipment	Not Exempt
Termination of inpatient or outpatient services offered by a hospital excluding mental health and substance abuse.	Not Exempt
Establishment or expansion of a hospital inpatient or outpatient service other than cardiac services.	Not Exempt
Partial or total elimination of services provided by Ambulatory Surgery Center	Not Exempt
Termination of services that DPH requested relinquish of license	Not Exempt
Relocation with certain conditions	Relocation within same town does not require CON approval
Hospice services	Not Exempt
Outpatient rehabilitation facilities	Not Exempt
Transplant services	Not Exempt
Programs licensed or funded by DCF	Same, except must register with OHCA
Nonprofit "provider" that has a contract with (or certified or licensed) to provide a service for a state agency, excluding hospitals	Same, except must apply for exemption
Outpatient clinics	Not Exempt

Throughout the years, the statutes have been modified to "exempt" or "waive" specific providers or services from the CON application process which has created a subset of different forms and processes. In addition, facilities that were considered "exempt" from the process still had to "register" with the Office of Health Care Access (OHCA) by submitting specific information. Although these legislative remedies have proven to be reasonable short-term strategies, effective on October 1, 2010, it will no longer be necessary to submit paperwork for an exemption, waiver or to register. However, if there are questions or uncertainty as to whether or not a CON is required, a letter of Determination may continue to be submitted.

During the transition period, OHCA will work closely with the industry as regulations are drafted and process changes are implemented. As more information becomes available, it will be posted on the web site www.ct.gov/ohca.